

J. SCOTT MOEDE, OSB #934816  
Chief Deputy City Attorney  
[scott.moede@portlandoregon.gov](mailto:scott.moede@portlandoregon.gov)  
NAOMI SHEFFIELD, OSB #170601  
Deputy City Attorney  
[naomi.sheffield@portlandoregon.gov](mailto:naomi.sheffield@portlandoregon.gov)  
ROBERT YAMACHIKA, OSB #065560  
Senior Deputy City Attorney  
[rob.yamachika@portlandoregon.gov](mailto:rob.yamachika@portlandoregon.gov)  
Portland City Attorney's Office  
1221 SW 4th Ave., Rm. 430  
Portland, OR 97204  
Telephone: (503) 823-4047  
Facsimile: (503) 823-3089  
*Of Attorneys for Defendant City of Portland*

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF OREGON**  
**PORTLAND DIVISION**

DON'T SHOOT PORTLAND, a nonprofit corporation, in its individual capacity, NICHOLAS J. ROBERTS, in an individual capacity and on behalf of themselves and all others similarly situated, MICHELLE "MISHA" BELDEN, in an individual capacity and on behalf of themselves and all others similarly situated, ALEXANDRA JOHNSON, in an individual capacity and on behalf of themselves and all others similarly situated,

**PLAINTIFFS,**

v.

CITY OF PORTLAND, a municipal corporation, and MULTNOMAH COUNTY, a political subdivision of the State,

**DEFENDANTS.**

**3:20-cv-00917-HZ**

**DECLARATION OF NICHOLAS BIANCHINI**

**(In Support of Defendant City of Portland's Response to Motion for Temporary Restraining Order and Preliminary Injunction)**

I, Nicholas Bianchini, declare as follows:

1. I am a Portland police officer. I was hired by the Portland Police Bureau (“PPB”) on April 16, 2009. My primary assignment is as a patrol officer in East Precinct.

2. Since 2011 I have worked on a detached, specialty assignment with PPB’s Rapid Response Team (“RRT”). RRT has an application and selection process. RRT is PPB’s primary specialty group that performs crowd management and crowd control services. Since 2016 my role on RRT has been as a grenadier. As a member of RRT I have received annual In-Service training, which varies from year to year, ranging from approximately 20 to 50 hours.

3. As a RRT grenadier, I have been trained in the use of less lethal weapons such as a 40 mm launcher and the FN303. The 40mm launcher is a shotgun-like platform that allows a variety of Riot Control Agents (“RCAs”) to be fired from it. These RCAs can include impact munitions, such as foam tipped impact rounds, marking rounds that contain paint, or Oleoresin Capsicum (“OC”) rounds that contain OC powder that disperse on impact. In addition, the 40mm launcher can be used to launch other RCAs such as smoke (obscurant), 2-chlorobenzalmalononitrile “CS” gas and Oleoresin Capsicum Pyrotechnic (“OC pyrotechnic”). The FN303 is a rifle-like platform that allows small, plastic balls to be fired from it. These balls can contain an active ingredient of 0.5% OC in a powder form and washable paint for marking suspects .

4. In addition to launchable RCAs, grenadiers also carry hand-tossed munitions including canisters of CS gas, OC pyrotechnic, or OC vapor. Grenadiers may also carry rubber ball distraction devices (“RBDDs”). RBDD payloads can vary, and some do not have any payloads at all, and are called inert RBDDs. An inert RBDD delivers only a blast of light and sound. A “live” RBDD delivers a blast of light and sound, but also contains small rubber balls (approximately .81 cm each) that are dispersed outward in an explosion. An “OC” RBDD delivers a blast of light and sound, but also projects a cloud of OC in outward in an explosion. The rubber ball dispersion during the explosion of a “live” RBDD or an “OC” RBDD radiates horizontally approximately 50 feet.

5. On Friday, May 29, 2020 and Saturday, May 30, 2020, I was assigned as a grenadier to RRT's Alpha Squad. My shift began at 1700 hours on May 29 and ended approximately 0400 hours on May 30. During part of my shift I was standing on top of the steps of the Multnomah County Justice Center on SW 3<sup>rd</sup> Avenue. I saw a rock the size of a tennis ball soar by my head. Fortunately, the rock missed my head and shattered a large glass window behind me. I saw another person, a black male wearing red pants and a white shirt, in the street throwing an object at the police. I shot a single 40mm less lethal marking round at this person, hitting him somewhere below his knee. The male ran away. While on shift, I deployed less lethal 40mm marking rounds on multiple occasions against subjects who I believed were attempting to harm me or other members of Alpha Squad.

6. On Tuesday, June 2, 2020 and Wednesday, June 3, 2020, I was assigned as a grenadier to RRT's Alpha Squad. My shift began at 1700 hours on June 2 and ended approximately 0400 hours on June 3. During part of my shift, on or after 2100 hours, I was near SW 5th Avenue and SW Yamhill Street. The area was crowded with protestors constructing barricades in the street and throwing objects at the police. Alpha Squad responded to help other RRT squads move the demonstrators out of the street. Dispersal announcements and force warnings had been given, but the crowd was refusing to disperse. I deployed one OC RBDD to move the crowd. The RBDD detonated at an appropriately safe distance from the demonstrators.

7. During part of my June 2-3 shift, on or after 2100 hours, I was near SW 6<sup>th</sup> Avenue and SW Yamhill Street. I deployed a single 40mm less lethal marking round at a white male in the street wearing all black clothing who I saw throwing an object at the police. The 40mm marking round hit the male in the right thigh, causing the male to run away to the west.

8. During part of my June 2-3 shift, on or after 2100 hours, I observed multiple subjects throwing projectiles at Alpha Squad. I deployed one 40mm marking round at a male subject who appeared to be between 20 to 30 years old, wearing all black clothing. This male was actively trying to throw what appeared to be a metallic object at my squad. The 40mm



marking round hit the male in the upper left thigh, causing him to run away to the west.

9. During part of my June 2-3 shift, on or after 2100 hours, I was near SW 4<sup>th</sup> Avenue and SW Salmon Street. A crowd had gathered that was hostile and violent towards Alpha Squad. After dispersal announcements and force warnings had been given, and the crowd had refused to disperse, I hand tossed on can of OC gas to disperse the crowd. The OC gas was effective and the crowd dispersed.

10. During part of my June 2-3 shift, on or after 2100 hours, I was near the area of SW 6<sup>th</sup> Avenue and SW Taylor Street. I deployed a 40mm marking round at a subject wearing all black clothing with a black helmet. This subject was actively taking cover behind a garbage can and throwing objects at Alpha Squad. The 40mm marking round struck this subject in the left shin. This subject ran away to the north.

11. During part of my June 2-3 shift, on or after 2100 hours, I was in the area of Pioneer Courthouse Square. Large crowds of people had gathered in the street. These crowds were blocking the street and some persons in the crowd were throwing object at the police. After dispersal announcements and force warnings had been given, and the crowd had refused to disperse, I deployed two canisters of OC from my 40mm launcher towards the crowd blocking the street and throwing objects at the police. The OC canisters landed a safe distance from the crowd of demonstrators and caused them to run away and leave the area. Also while in the area of Pioneer Courthouse Square, I deployed approximately six rounds of 40mm less lethal marking rounds. I and other RRT members had deployed gas canisters. People in the crowd were picking up the metal canisters and throwing them at the RRT. These people were all dressed in black clothing. I targeted each of these people in their lower extremities.

12. During part of my June 2-3 shift, on or after 2100 hours, I was in the area of SW 5<sup>th</sup> Avenue and SW Yamhill Street. After dispersal announcements and force warnings had been given, and the crowd had refused to disperse, I deployed two canisters of CS gas in front of a volatile crowd who were launching fireworks and throwing objects at the police. I deployed the

CS canisters a safe distance from the crowd. My deployments were mixed with a combination of CS gas, OC and smoke from other officers, which created a large cloud that quickly caused this large unruly crowd to disperse.

13. During part of my June 2-3 shift, on or after 2100 hours, I was in the area of SW 6<sup>th</sup> Avenue and SW Salmon Street. After dispersal announcements and force warnings had been given, and the crowd had refused to disperse, I deployed two OC RBDDs. A hostile crowd was advancing toward Alpha Squad. I deployed one OC RBDD, which caused this crowd to disperse and move away from us to the north. However, this crowd quickly reconvened and began advancing again towards Alpha Squad. A RRT supervisor decided our squad should leave the area and we boarded the running boards of the RRT van to leave the area. I deployed a second OC RBDD to provide distance and time for Alpha Squad to leave the area.

14. During part of my June 2-3 shift, on or after 2100 hours, I was in the area of SW 6<sup>th</sup> Avenue and Yamhill Street. Alpha Squad responded to this area to assist a Mobile Field Force ("MFF") of other PPB police officers. People in the crowd were throwing projectiles at the MFF. The crowd was blocking traffic. After dispersal announcements and force warnings had been given, and the crowd had refused to disperse, I deployed a canister of OC vapor gas in front of the crowd in the street. The crowd retreated to the west and into Pioneer Courthouse Square. The situation was dynamic and constantly evolving. I believe my use of OC vapor gas (and CS gas), prevented my squad from needing to use physical force against persons in the crowd.

15. On Saturday, June 6, 2020 and Sunday, June 7, 2020 Friday, I was assigned as a grenadier to RRT's Alpha Squad. My shift began at 1700 hours on June 6 and ended approximately 0400 hours on June 7. During part of my June 6-7 shift, on or after 2300 hours, I was at SW 4<sup>th</sup> Avenue and SW Main Street. A crowd of demonstrators was in the street blocking traffic. Some persons in this crowd were throwing objects at the police. Alpha Squad responded to this area to assist other RRT squads to clear the demonstrators out of the street. After

dispersal announcements and force warnings had been given, and the crowd had refused to get out of the street, I deployed one RBDD round to motivate the crowd to move out of the street.

16. During part of my June 6-7 shift, on or after 2300 hours, I observed multiple subjects throwing projectiles at Alpha Squad. I deployed one 40mm less lethal marking round at a male subject who was actively trying to throw what appeared to be a clear bottle at my squad. The male was wearing all black clothing, and appeared to be between 20 to 30 years old. My 40mm marking round hit the male in the upper right thigh. During the same shift, I observed another male about the same age, wearing mostly black clothing and a face mask. This male was in the street and I saw him throw an object at the police. I deployed one 40mm less lethal marking round at this male, which hit him below the waistline.

17. During part of my June 6-7 shift, on or after 2300 hours, after dispersal announcements and force warnings had been given, and the crowd had refused to disperse, I deployed one canister of smoke to motivate the crowd to disperse. At one point during this shift, I saw a crowd of demonstrators approaching the police. After dispersal announcements and force warnings had been given, and the crowd had refused to disperse, I hand tossed one RBDD a safe distance from this approaching group to deter the crowd from approaching.

18. On Sunday, June 7, 2020 and Monday, June 8, 2020, I was assigned as a grenadier to RRT's Alpha Squad. My shift began at 1700 hours on June 7 and ended approximately 0400 hours on June 8. During part of my shift, on or after 2300 hours, one of streets downtown was crowded with demonstrators blocking traffic and throwing objects at the police. Alpha Squad responded to assist other RRT squads to move the demonstrators out of the street. After dispersal announcements and force warnings had been given, and the crowd had refused to get out of the street, I deployed one RBDD to motivate the crowd to move out of the street. The RBDD detonated a safe distance from the crowd. The crowd continued moving to the west.

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19. During this same June 7-8 shift, on or after 2300 hours, I saw multiple persons throwing projectiles at Alpha Squad. A male subject who appeared to be between 20 and 30 years old, wearing all black clothing, with a red cross on his back, was in the street and kicked back towards the police a metal canister that was deploying smoke. I shot one 40mm less lethal marking round at this male. My 40mm marking round hit the male in the lower back. The male ran away to the west.

20. During this same June 7-8 shift, on or after 2300 hours, I deployed 40mm marking rounds at three other white males who were throwing bottles and other objects at the police. These males were wearing mostly black clothing, and two were wearing masks or face coverings. The marking rounds struck these subjects in their upper right thighs. In one case, the bottle flew right past my head as I deployed the marking round.

21. On Friday, June 12, 2020 and Saturday, June 13, 2020, I was assigned as a grenadier to RRT's Alpha Squad. My shift began at 1700 hours on June 12 and ended approximately 0400 hours on June 13. During part of this shift, on or after 2330 hours, I was at SW 3<sup>rd</sup> Avenue and SW Oak Street. Multiple subjects were throwing objects at the police. I saw a white male who appeared to be between 20 and 30 years old wearing shorts and a dark colored zip-up hoodie pick up a blue construction barrel and run at Alpha Squad. I shot one 40mm round at this person. The round hit the subject in the ankle, causing him to drop the barrel and run away to the north.

22. During part of this June 12-13 shift, on or after 2330 hours, I was at SW 3<sup>rd</sup> Avenue and SW Ash Street, demonstrators were in the street and throwing projectiles at the police. After dispersal announcements and force warnings had been given, and the crowd had refused to disperse, I hand tossed RBDDs to deter the crowd from approaching the police and encourage them to disperse the area. The RBDDs were effective causing the crowd to disperse to the west and north.

23. On Saturday, June 13, 2020 and Sunday, June 14, 2020, I was assigned as a

grenadier to RRT's Alpha Squad. My shift began at 1700 hours on June 13 and ended approximately 0400 hours on June 14. During part of this shift, on or after 2300 hours, I was in the area of SW 5<sup>th</sup> Avenue and Burnside Street. The street was crowded with demonstrators who were blocking traffic and throwing objects at the police. Alpha Squad responded to assist other police officers to clear the demonstrators out of the street. After dispersal announcements and force warnings had been given, and the crowd had refused to disperse or get out of the street, I deployed one RBDD to motivate the crowd to move. The RDBB detonated at a safe distance from the demonstrators.

24. During part of my June 13-14 shift, on or after 2300 hours, I was in the area of NW 4<sup>th</sup> Avenue and NW Couch Street. After dispersal announcements and force warnings had been given, and the crowd had refused to disperse or get out of the street, I deployed one hand RBDD near a large crowd of demonstrators who were blocking traffic and throwing objects at the police. The RBDD was effective in deterring the crowd from advancing on the police and encouraged them to get out of the street. The RDBB detonated at a safe distance from the demonstrators.

25. On Saturday, June 27, 2020 and Sunday, June 28, 2020, I was assigned as a grenadier to RRT's Delta Squad. My shift began at 1700 hours on June 13 and ended approximately 0400 hours on June 14. During part of this shift, on or after 2335 hours, I deployed my 40mm less lethal at several persons who were throwing objects at the police or striking police officers with weapons. In one case, a white male wearing all black clothing swung an umbrella at a police officer, striking the police officer. I deployed a 40mm round at this person, striking him in the right side of his waistline. In another case, a white female wearing all black clothing threw a bottle at Delta Squad. I deployed a 40mm round at this female, striking her in the right thigh. In a third case, a white male ran towards Delta Squad with a lighted flare. I deployed a 40mm round at this male, striking him in the left leg.

26. During this same shift, on or after 0120 hours, a white male was pushing a large



blue dumpster towards the police. I deployed a 40mm round at this male, striking him just below his right knee. In another case, a person wearing dark clothing picked up a metal canister to throw at Delta Squad as my squad was preparing to leave the area. I deployed a 40mm round, which fell short of the person, with the round striking the street pavement. In a third case, while Delta Squad was moving a crowd of demonstrators, a white male approximately 30 years old approached me in an aggressive manner. I gave the male a two-handed push, and the male fell back into the arms of a female.

27. While deployed with Alpha Squad or Delta Squad during the recent protests, rioting and public disorder in downtown Portland, I believe all my use of force was objectively reasonable under the totality of the circumstances.

28. I make this declaration in support of Defendant City of Portland's Response to Motion for Temporary Restraining Order and Preliminary Injunction.

**I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.**

DATED: 7/4/20

  
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Nicholas Bianchini

